assumes office or until the Upadhakshya resumes his duties, as the case may be.

(5) When the offices of the Adhakshya and the Upadhaksya are both vacant or the Adhakshya and the Upadhakshya are temporarily unable to act, the prescribed authority may appoint an Adhakshya and an Upadhakshya from among the members of the Zilla Panchayat to act as such until an Adhakshya or an Upadhakshya are elected and assume office or resume his duties, as the case may be.

Notification of election, nomination, etc.

46. Every election or nomination of an Adhakshya or an Upadhakshya and members of a Zilla Panchayat, as the case may be, shall be published by the State Government in the official Gazette and such persons shall enter upon their respective offices from the date of such publication.

First meeting of the Zilla Panchayat.

47. (1) Notwithstanding any vacancy in the membership of the Zilla Panchayat, the prescribed authority shall as soon as may be (but before the expiration of thirty days from the date of publication of the notification under section 46) call a meeting of the members of a Zilla Panchayat at such place and at such time as he may fix for electing an Adhakshya and Upadhakshya.

(2) The meeting to be held under sub-section (1) shall be called the first meeting of the Zilla Panchayat and may be convened by the prescribed authority in such manner as it may determine.

Meeting of Zilla Panchayat.

48. (1) Every Zilla Panchayat shall hold a meeting for transaction of its business atleast once in every two months at the office of the Zilla Panchayat or at such place within the local limits of the district concerned and at such time as the Adhakshya of the Zilla Panchayat may fix.

(2) The Adhakshya may, whenever he thinks fit in the public interest or shall upon a written requisition of not less than one half of the total number of members of the Zilla Panchayat or if directed by the Secretary of the Rural Development Department or the Deputy Development Officer-cum-Planning Officer of the concerned district, call a special meeting of the Zilla Panchayat within a period of ten days from the date of receipt of the requisition or direction, as the case may be :

Provided that if the Adhakshya fails to call such special meeting within the specified period from the date of receipt of requisition or direction, as the case may be, the Secretary of the Rural Development Department or the Deputy Development Officer-cum-Planning Officer of the concerned district may direct any member of the Zilla Panchayat to call such meeting which shall be held at such time and in such place within the local limits of the district concerned as the member of the Zilla Panchayat directed to call the meeting may fix.

(3) Two-third of the total number of members shall form a quorum for a meeting of the Zilla Panchayat :

Provided that no quorum shall be necessary for an adjourned meeting.

(4) The Adhakshya or in his absence, the Upadhakshya shall preside at the meeting of the Zilla Panchayat ; and in the absence of both, the

members present shall elect one member from amongst themselves to preside at the meeting.

(5) All questions coming before a Zilla Panchayat shall, unless otherwise specifically provided under this Act, be decided by a majority of votes of the members present and voting :

Provided that in case of equality of votes the person presiding shall have a second or casting vote.

(6) No member shall vote on and take part in the discussion of any question coming up for consideration at a meeting of a Zilla Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of the public.

(7) If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for considaration as referred to in sub-section (6) and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purposes of sub-section (4) such person shall be deemed to be absent during the discussion or consideration of the particular matter.

Reconsideration of questions disposed of by Zilla Panchayat.

49. No subject once finally disposed of by the Zilla Panchayat shall be reconsidered by it within six months unless the recorded consent of not less than one half of members has been obtained therefor.

List of business to be transacted at a meeting.

50. (1) A list of the business to be transacted at every meeting of a Zilla Panchayat except at an adjourned meeting, shall be sent to each member of the Zilla Panchayat at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so given, except with the approval of the majority of the members present at such meeting :

Provided that non-receipt of a notice by a member shall not vitiate the proceedings of a meeting :

Provided further that if the Adhakshya thinks that a situation has arisen for which an emergent meeting of the Zilla Panchayat should be called, he may call such meeting after giving three days notice to the members:

Provided also that not more than one matter shall be included in the list of business to be transacted at meeting called under the second proviso.

(2) The business of the Zilla Panchayat shall be transacted in the language spoken and understood by the members.

(3) Minutes of the proceedings of each meeting of the Zilla Panchayat shall be recorded in a book to be kept for this purpose and shall be read out and signed by the Adhakshya of the meeting before the meeting disperses.

(4) The Sachiva of a Zilla Panchayat shall, within a week after a meeting of the Zilla Panchayat, send copies of minutes of every such meeting to the Deputy Devolopment Officer-cum-Planning Officer and the Secretary.

Powers and duties of Adhakshya

51. The Adhakshya shall :—

(a) regulate the meetings of the Zilla Panchayat ;

(b) be responsible for the maintenance of record and registers of the Zilla Panchayat ;

(c) exercise supervision and control over the act done and action taken by the members of the Zilla Panchayat and such officers and such other employees whose services may be placed at the disposal of the Zilla Panchayat by the State Government;

(d) operate jointly with the Sachiva of the Zilla Panchayat the Fund of the Zilla Panchayat including authorisation of payment, issue of cheques and refunds;

(e) issue receipts under his signature for sums of money received by him for and on behalf of the Zilla Panchayat;

(f) cause preparation of all statements and reports required by or under this Act;

(g) exercise such other powers, perform such other functions and discharge such other duties as the Zilla Panchayat may, by general or special resolution, direct or as the State Government may, by order specify :

Provided that the Adhakshya shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the Zilla Panchayat at a meeting.

Powers and duties of Upadhakshya.

52. The Upadhakshya shall—

(a) in the absence of the Adhakshya, preside over and regulate the meetings of the Zilla Panchayat;

(b) exercise such of the powers, perform such of the functions and discharge such of the duties of the Adhahshya as the Adhakshya may, from time to time, delegate to him by order in writing :

Provided that the Adhakshya may at any time withdraw all or any of the powers, functions and duties so delegated to the Upadhakshya;

(c) during the absence of the Adhakshya, exercise all the powers, perform all the functions and discharge all the duties of the Adhakshya.

Right of individual members.

53. At a meeting of a Zilla Panchayat, a member may move any resolution and put questions to the Adhakshya or Upadhakshya, as the case may be, on matters connected with the administration of Zilla Panchayat or execution of rural works or schemes entrusted to or undertaken by such Zilla Panchayat.

Resignation of Adhakshya and Upadhakshya or a member.

54. (1) An Adhakshya or an Upadhakshya or a member of a Zilla Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Adhakshya or the Upadhakshya or the member shall vacate his office and casual vacancy shall be deemed to have occured in such office :

Provided that a person tendering resignation may withdraw his resignation before it is accepted.

(2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Zilla Panchayat within thirty days of such acceptance.

Removal of Adhakshya and Upadhakshya.

55. (1) An Adhakshya or an Upadhakshya may, at any time, be removed from office by a resolution of the Zilla Panchayat passed by the majority of the members of the Zilla Panchayat present and voting at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority :

Provided that at any such meeting while any resolution for the removal of—

(i) the Adhakshya from his office is under consideration; or

(ii) the Upadhakshya from his office is under consideration,

he shall not, though he is present, preside at such meeting and the provisions of sub-section (4) of section 48 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Adhakshya or, as the case may be, the Upadhakshya is absent.

(2) No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

Filling of casual vacancy in the office of Adhakshaya or Upadhakshya.

56. In the event of removal of an Adhakshya or an Upadhakshya under section 55 or when a vacancy occurs in the office of the Adhakshya or Upadhakshya by resignation, death or otherwise the Zilla Panchayat shall elect another Adhaykshya or Upadhakshya, as the case may be. The person so elected shall take office forthwith and shall hold office for the unexpired term of office of his predecessor.

Removal of member of Zilla Panchayat.

57. (1) The prescribed authority may, after giving opportunity to a member of a Zilla Panchayat other than an ex-officio member to show cause against the action proposed to be taken against him, by order, remove him from office if—

(a) after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or

(b) he was disqualified to be a member of the Zilla Panchayat at the time of his election; or

(c) he incurs any of the disqualifications mentioned in clauses (b), (c), (d), (e), (g), (h) or (j) of section 9 after his election as a member of the Zilla Panchayat; or

(d) he is absent from three consecutive meetings of the Zilla Panchayat without the leave of the Zilla Panchayat provided he is not an ex-officio member of the Zilla Panchayat.

(2) Any member of a Zilla Panchayat who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority and after giving the appellant and opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by such authority on such appeal shall be final.

(4) If a member of a Zilla Panchayat referred to in clause (c) of sub-section (2) of section 42 ceases to be the member of the Legislative Assembly of the State he shall cease to be the member of the Zilla Panchayat and the newly elected person shall become the member of the Zilla Panchayat.

Filling of casual vacancy in office of a member of Zilla Panchayat.

58. If the office of a member of a Zilla Panchayat becomes vacant by reason of his death, resignation, removal or otherwise, such vacancy shall be filled in by election of another person under this Act. The person so elected shall take office forthwith and shall hold such office for the un-expired term of office of his predecessor :

Provided that no election for filling in of a casual vacancy shall be held if the vacancy occurs within a period of three months preceding the date on which the term of office of the person concerned expires.

Sachiva of Zilla Panchayat.

59. (1) There shall be a Sachiva for a Zilla Panchayat appointed by the State Government on such terms and conditions as may be prescribed :

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the Zilla Panchayat, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

(2) The Sachiva shall also supervise all records of every Gram Panchayat falling under the jurisdiction of a Zilla Panchayat of a concerned district.

(3) The Sachiva shall be incharge of the office of the Zilla Panchayat and shall discharge such duties and perform such functions as may be prescribed.

CHAPTER VI
Powers and Duties of Zilla Panchayat

Obligatory duties of Zilla Panchayat.

60. (1) Subject to any general or special directions of the State Government, a Zilla Panchayat shall have power in respect of—

(a) regulating melas or hats within its local limits;

(b) construction and maintenance of Panchayat Ghars, Dharamsalas and rest houses;

(c) construction, repair and maintenance of such small irrigation projects of such class or types thereof, as may be specified by the State Government by general or special order in this behalf, and regulating of supply of water therefrom for irrigation purposes;

(d) regulating supply of water for irrigation or drinking water supply schemes constructed by the Government and entrusted to it for maintenance and repair;

(e) regulating, maintaining and developing of lands vested in it by the Government;

(f) organising plantation programme in the public land, road sides and such other places as may be specified for promotion of social forestry and environmental conservation and maintaining and regulating of such forests;

(g) establishing and maintaining primary schools and organising adult education centres;

(h) establishing health centres and maternity and child welfare centres;

(i) managing or maintaining any works of public utility and adopting measures for the relief of distress;

(j) preparing plans for all round development of the district after obtaining previous approval of the Government and with such technical assistance as may be made available by the Government;

(k) co-ordinating and integrating the development plans and schemes prepared by Gram Panchayats within its jurisdiction;

(l) fulfilling any other obligation imposed by or under this Act or by any other law for the time being in force or by general or special order of the Government in this behalf.

Other duties of Zilla Panchayat.

61. (1) Subject to such conditions as may be imposed by the State Government, a Zilla Panchayat may, if the State Government so directs, make provisions for—

(a) the promotion of opportunity of employment through community farming by organising model agriculture or dairy farms and small scale village industries;

(b) the organisation and maintenance of clubs and other places for recreation or games;

(c) establishment and maintenance of library or reading rooms and public radio listening centres;

(d) construction and maintenance of destitute homes, slaughter houses and encamping grounds;

(e) rendering assistance in extinguishing fire and protecting life and property when fire occurs;

(f) assisting in the prevention of burglary and dacoity;

(g) the promotion of socio-cultural and communal harmony;

(h) the promotion of agriculture and allied activities connected with it;

(i) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act.

(2) Where the State Government directs a Zilla Panchayat to make provision for any of the items enumerated in sub-section (1), it shall place such funds at the disposal of the Zilla Panchayat as may be required for making such provision.

(3) A Zilla Panchayat shall have the power to advise the State Government on all matters relating to the development works in the Gram Panchayats.

(4) Notwithstanding anything in sub-section (1), a Zilla Panchayat shall not undertake or execute any scheme confined to a Gram unless the implementation of such a scheme is beyond the competence of the Gram Panchayat concerned financially or otherwise. In the latter case the Zilla Panchayat may execute the scheme itself or entrust its execution to the Gram Panchayat and give such assistance as may be required :

Provided that a Zilla Panchayat shall undertake or execute any scheme if it extends to more than one Gram.

Vesting of Zilla Panchayat with certain powers.

62. (1) A Zilla Panchayat may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(2) A Zilla Panchayat shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

Joint execution of schemes by two or more Zilla Panchayats.

63. The Zilla Panchayats of two or more adjacent districts may jointly undertake and execute at common cost any development scheme or project on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

Power of supervision by Zilla Panchayat over Gram Panchayats.

64. A Zilla Panchayat shall exercise general powers of supervision over Gram Panchayats in the district and it shall be the duty of Gram Panchayat to give effect to any direction of the Zilla Panchayat on matters of policy or planning for development.

CHAPTER VII
Property and Fund

Works constructed by a Zilla Panchayat to vest in it.

65. All roads, buildings or other works constructed by a Zilla Panchayat with its own funds shall vest in it.

Allocation of properties to Zilla Panchayat.

66. (1) The State Government may allocate to a Zilla Panchayat any public property of whatsoever nature or kind situated within its local limits, and thereupon, such property shall vest in and come under the control of the Zilla Panchayat.

(2) No property vested in or belonging to a Zilla Panchayat shall be transferred by way of sale, gift, mortgage, exchange or lease without the previous sanction of the State Government.

(3) Where the State Government is of opinion that any property vested in or belonging to a Zilla Panchayat is required for the purpose of any National or State Development plan or for any other public

purpose, the State Government may resume such property and upon such resumption the property shall cease to vest in the Zilla Panchayat and shall re-vest in the State Government.

(4) No compensation other than the amount paid by the Zilla Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Zilla Panchayat at the time of such resumption shall be payable. Any sum so received shall be credited to the Zilla Panchayat Fund.

Acquisition of land for Zilla Panchayat.

67. Where a Zilla Panchayat requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement it may make an application to the District Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Sikkim Land (Requisition and Acquisition) Act, 1977. 1 of 1978.

Zilla Panchayat Fund.

68. (1) For every Zilla Panchayat there shall be constituted a Zilla Panchayat Fund bearing the name of the Zilla Panchayat and there shall be placed to the credit thereof—

(a) contributions and grants, if any, made by the Central or the State Government including such portion of land revenue collected within its jurisdiction as may be determined by the State Government;

(b) contributions and grants, if any, made by any other local authority;

(c) loans, if any, granted by the Central or State Government;

(d) proceeds of collection of revenues in respect of schemes, projects and other properties undertaken or vested in the Zilla Panchayat by the Government at such rates as may be determined by the State Government;

(e) such rates, fees, taxes, as may be imposed and realised under the provisions of this Act;

(f) such sums received from the Government for fulfilling duties and obligations entrusted to the Zilla Panchayat by the State Government;

(g) all other sums received by or on behalf of the Zilla Panchayat.

(2) Every Zilla Panchayat shall set apart and apply annually such sum as may be required to meet the cost of its administration including allowances payable to the members.

(3) Every Zilla Panchayat shall have the power to spend such sums as the State Government may, by order, specify for carrying out the purposes of this Act.

(4) The Zilla Panchayat Fund shall be vested in the Zilla Panchayat and the amount standing to the credit of the Fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(5) Subject to such general control as the Zilla Panchayat may exercise, from time to time, orders and cheques for payment from the Zilla Panchayat Fund shall be signed by the Adhakshya.

Imposition of taxes, rates and fees.

69. Subject to the miximum rates which may be fixed by the State Government, a Zilla Panchayat may levy following taxes, rates and fees, namely:—

(a) a tax on fairs, melas and other entertainments;

(b) a general sanitary tax for the construction, maintenance, or both the construction and maintenance of public latrines and for the removal and disposal of refuse;

(c) a water rate where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Zilla Panchayat within its jurisdiction;

(d) a fee for temporary erection on, or putting up projections over, or temporary occupation of any village road or place;

(e) a fee on private latrines, premises or compounds cleaned by the Zilla Panchayat agency;

(f) a fee for grazing cattle on the grazing lands vested in a Zilla Panchayat;

(g) a fee on the registration of animals sold in any market or place belonging to or under the control of the Zilla Panchayat;

(h) a market fee on persons exposing goods for sale in any market or at any place or in any building or structure therein belonging to or under the control of the Zilla Panchayat;

(i) a fee for the use of dharmasalas, rest houses, slaughter houses and encamping grounds;

(j) a fee for drainage where system of drainage has been introduced by the Zilla Panchayat;

(k) a temporary tax for special works of public utility.

(2) The Zilla Panchayat shall not levy taxes, rates or fees referred to in sub-section (1) if such taxes, rates or fees are already been levied by any other authority under any law for the time being in force or by any other local authority.

Power of State Government to regulate taxes.

70. (1) The State Government may make rules to regulate the imposition, assessment to, and collection of taxes, rates and fees under sector 69.

(2) Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of his liability to any assessment made or tax imposed under this Act.

Appeal against taxation, rate or fee.

71. An appeal against any tax, rate or fee under section 69 may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

Recovery of arrears

72. Any arrear of tax, rate or fee imposed under section 69 shall be recoverable as arrears of land revenue or public demand if the Zilla Panchayat passes a resolution to that effect and communicates it to the District Collector.

Action by District Collector.

73. (1) The District Collector on receipt of communication under section 72 and on being satisfied with the demand shall proceed to recover it.

(2) Any sum so recovered shall be sent to the Zilla Panchayat and shall be credited to the Zilla Panchayat Fund.

Power of State Government in regard to relief in taxes.

74. (1) If on a complaint made to it or otherwise, it appears to the State Government that any tax, rate or fee imposed by a Zilla Panchayat, is excessive, it may, after calling a report from the Zilla Panchayat in this regard, abolish or suspend or reduce the amount of any tax, rate or fee, as the case may be.

(2) The State Government may, on its own motion or otherwise after giving the Zilla Panchayat an opportunity of expressing its view in the matter, by order, exempt—

(a) any person or class of persons; or

(b) any property or description of properties,

from the payment of whole or part of any tax, rate or fees subject to such conditions as may be specified in such order.

Budget of Zilla Panchayat.

75. (1) Every Zilla Panchayat shall at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and expenditure for the next financial year and submit it to the State Government for approval.

(2) No expenditure shall be incurred unless the budget is approved by the State Government.

Supplementary budget.

76. A Zilla Panchayat may prepare in each year supplementary estimates providing for any modification of its budget and submit it to the State Government for approval within such time and in such manner as may be prescribed.

Accounts.

77. A Zilla Panchayat shall keep such accounts in such manner as may be prescribed.

CHAPTER VIII
Audit

Audit of accounts of fund.

78. The accounts of the Fund of a Gram Panchayat or Zilla Panchayat shall be examined and audited by an auditor appointed in that behalf by the State Government at such time and place and in such manner as the State Government may prescribe.

Submission of accounts to audit.

79. The Sabhapati or, as the case may be, the Adhakshya shall produce, or cause to be produced, to the auditor all such accounts of the Fund of the Gram Panchayat or the Zilla Panchayat concerned as may be required by the auditor.

Powers of Auditors.

80. For the purposes of an audit under this Act an auditor may—

(i) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;

(ii) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document, or having, directly or indirectly, whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the Gram Panchayat or the Zilla Panchayat concerned;

(iii) require any person so appearing before him to make and sign a declaration in respect of any such document or to answer any question or prepare any submit and statement.

Penalty.

81. Any person who neglects or refuses to comply with the requisition made by the auditor under section 80 within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to fifty rupees in respect of each item included in the requisition.

Audit report.

82. (1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and send a copy of the report to the Sabhapati or Adhakshya, as the case may be, of the Gram Panchayat or the Zilla Panchayat and to the State Government.

(2) The auditor shall append to his report a statement showing —

(a) the grants-in-aid received by the Gram Panchayat or the Zilla Panchayat and the expenditure incurred therefrom;

(b) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due to the Gram Panchayat or the Zilla Panchayat or in the accounts of the Gram Panchayat or the Zilla Panchayat Fund;

(c) any loss or wastage of money or other property owned by or vested in the Gram Panchayat or the Zilla Panchayat.

Action on audit report.

83. (1) Within two months from the date of receipt of the report referred to in section 82, the Gram Panchayat or the Zilla Panchayat concerned shall, at a meeting, remove or cause to be removed any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The Gram Panchayat or the Zilla Panchayat concerned shall give reasons or explanations if any defect or irregularity is not removed.

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the Gram Panchayat or the Zilla Panchayat concerned or if the reasons or explanations given by it for not removing any defect or irregularity pointed out in the report is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 84 refer the matter to the State Government within such time and in such manner as the State Government may prescribe.

(3) On receipt of the report under sub-section (2), it shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 84 and 85, be final and the Gram Panchayat or the Zilla Panchayat concerned shall take action in accordance with such orders.

(4) If the Gram Panchayat or the Zilla Panchayat concerned fails to comply with the order within the period specified therein, the State Government may empower any officer of the State Government to carry out the order.

(5) Officer empowered under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the Gram Panchayat or Zilla Panchayat concerned.

Power of auditor to surcharge etc.

84. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of the illegal payments, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amounts due from such person:

Provided that the auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed 20 rupees.

(2) For the purposes of this section any member of Gram Panchayat or Zilla Panchayat, as the case may be, who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

(3) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the Sabhapati or Adhakshya, as the case may be, and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

Appeal

85. (1) Any person from whom any sum has been certified by the auditor to be due under section 84 may, within thirty days of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(2) Where a person referred to in sub-section (2) of section 84, who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

Payment of certified sums.

86. (1) The sum certified by the auditor to be due from any person under section 84 or when an appeal is made under sub-section (1) of section 85, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification, or order, as the case may be, be paid by such person to the Gram Panchayat or the Zilla Panchayat concerned which shall credit the sum to the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

(2) Any sum not paid in accordance with the provision of sub-section (1) shall be recoverable as arrears of land revenue if the Gram Panchayat or the Zilla Panchayat, as the case may be, passes a resolution to that effect and communicates it to the District Collector.

(3) The District Collector on receipt of such communication under sub-section (2) and on being satisfied with the demand, shall proceed to recover it as soon as may be and the sum so recovered by him shall be sent to the Gram Panchayat or Zilla Panchayat concerned and the same shall be credited to the Fund of the Gram Panchayat or Zilla Panchayat concerned.

Certain costs and expenses payable out of Funds

87. (1) All expenses incurred by the Gram Panchayat or the Zilla Panchayat concerned in complying with any requisition of the auditor under section 80 and in prosecuting an offender under section 81 shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

(2) All expenses incurred by the District Collector in connection with the proceedings for recovery of any sum under sub-section (3) of section 86 from a person, if not recovered from the person, shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

CHAPTER IX

Miscellaneous

Oath of affirmation.

88. Every member of a Gram Panchayat or Zilla Panchayat other than a member referred to in clause(c) of sub-section (2) of section 42 shall before taking his office make and subscribe before such authority as may be specified by the State Government in this behalf an oath or affirmation according to the Form set out for the purpose in the Schedule.

Validation.

89. No act or proceeding of a Gram Panchayat or Zilla Panchayat shall be deemed to be invalid merely by reason of the existence of any vacancy in the Gram Panchayat or Zilla Panchayat, as the case may be, or any defect or irregularity in the constitution thereof.

Members and officers and employees to be public servants.

90. All members, officers and employees of the Gram Panchayat and Zilla Panchayat shall be deemed, when acting or purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

Indemnity

91. No suit or other legal proceedings shall lie against a Gram Panchayat or Zilla Panchayat or against any member thereof or any officer or any employee for anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Reference of dispute.

92. (1) If any dispute arises between two or more Gram Panchayats, within the jurisdiction of the same Zilla Panchayat, it shall be referred to the Zilla Panchayat concerned by any party to the dispute and the decision of the Zilla Panchayat thereon shall be final.

(2) If any dispute arises—

(a) between a Gram Panchayat within a district on the one side and the Zilla Panchayat of the same district on the other; or

(b) between two or moreZilla Panchayats; or

(c) between one or more Gram Panchayats in one district on the one side and one or more Gram Panchayats in another district on the other; or

(d) between one or more Gram Panchayats in one district on the one side and the Zilla Panchayat of another district on the other;

such dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

Inspection.

93. (1) The State Government shall empower the Secretary and such other officers as it may consider necessary for the purpose of inspecting or superintending the works of all, or any class of, Gram Panchayats or Zilla Panchayats.

(2) An officer so empowered to inspect or superintend the works of a Gram Panchayat or Zilla Panchayat may at any time—

(a) inspect or cause to be inspected any immovable property used or occupied by the Gram Panchayat or Zilla Panchayat or any work in progress under the direction of Gram Panchayat or Zilla Panchayat;

(b) inspect or examine any work or thing under the control of the Gram Panchayat or Zilla Panchayat;

(c) require, for the purposes of inspection or examination, the Gram Panchayat —

(i) to produce any book, record, correspondence, plan or other document; or

(ii) to furnish any return, plan, estimate, statement, accounts or statistics; or

(iii) to furnish or obtain any report or information.

(3) When an inspection of a Gram Panchayat or Zilla Panchayat is undertaken by any officer referred to in sub-section (1), a report of such inspection shall be submitted by such officer to the State Government as soon as possible but not beyond a period of thirty days after the date of completion of inspection.

Power of State Government to rescind or suspend resolution of a Gram Panchayat or Zilla Panchayat.

94. (1) The State Government may, by order in writing, rescind any resolution passed by a Gram Panchayat or Zilla Panchayat, if in its opinion such resolution—

(a) has not been legally passed; or

(b) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder; or

(c) is likely to cause, if executed, danger to human life, health, or safety or is likely to lead to breach of the peace.

(2) The State Government shall, before taking any action under sub-section (1) give the Gram Panchayat or Zilla Panchayat concerned an opportunity of making any representation against the proposed order.

Power of State Government officers to attend meetings.

95. Any officer of the State Government authorised by the State Government in this behalf, shall be entitled to attend meetings of the Gram Panchayat or the Zilla Panchayat, as the case may be, for the purpose of furnishing facts, information and technical advice but shall not be entitled to vote at any such meeting.

Directions by State Government.

96. In the discharge of their functions the Gram Panchayat and the Zilla Panchayat shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

Power to remove Sabhapati, Up-Sabhapati, Sachiva of Gram Panchayat, Adhyakshya Upadhyakshya of Zilla Panchayat

97. (1) The State Government may, notwithstanding anything contained in sub-section (2) of section 10, sub-section (4) of section 24 and sub-section (2) of section 45, by an order in writing, remove with effect from a date to be specified in the order any Sabhapati or Up-Sabhapati or any Sachiva of Gram Panchayat, any Adhakshya or Upadhakshya of Zilla Panchayat from his office, if in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

(2) The State Government shall, before making any order under sub-section (1), give to the person concerned an opportunity of making a representation against the proposed order.

Powers of State Government to supersede a Gram Panchayat or Zilla Panchayat.

98. If, in the opinion of the State Government, any Gram Panchayat or Zilla Panchayat—

(a) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law; or

(b) has exceeded or abused its powers, the State Government may, by order, to be published in the Official Gazette stating the reasons therefore, supersede the Gram Panchayat or Zilla Panchayat, as the case may be, and direct that it be reconstituted within such period not exceeding the maximum period of one year as may be specified in the order :

Provided that the State Government shall, before making any order under sub-section (1), give the Gram Panchayat or the Zilla Panchayat, as the case may be, an opportunity of making a representation against the proposed order.

Consequences of supersession.

99. (1) When an order of supersession has been passed under section 98 then with effect from the date of the order—

(a) all the members of the Gram Panchayat or the Zilla Panchayat, as the case may be, shall vacate their offices;

(b) all the powers, duties and functions which, under the provisions of this Act or any rule made thereunder or any law for the time being in force may be exercised, discharged or performed by the Gram Panchayat or Zilla Panchayat, as the case may be, shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;

(c) all properties vested in the Gram Panchayat or Zilla Panchayat, as the case may be, shall remain vested in the State Goverment until the reconstitution of the such Gram Panchayat or Zilla Panchayat.

(2) On the reconstitution of the Gram Panchayat or Zilla Panchayat, as the case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

Election of Sabhapati or Up-Sabhapati or Sachiva or member of Gram Panchayat or Adhakshya or Upadhakshya or member of Zilla Panchayat.

100. If a Sabhapati or an Up-Sabhapati or Sachiva or a member of a Gram Panchayat or an Adhakshya or an Upadhakshya or member of a Zilla Panchayat becomes a member of either house of Parliament or a member of Legislative Assembly, he shall be deemed to have vacated his office as Sabhapati or Up-Sabhapati or Sachiva or member of a Gram Panchayat or Adhakshya or Upadhakshya or member of a Zilla Panchayat, as the case may be, with effect from the date of his becoming such member and a casual vacancy shall be deemed to have occured in such office.

Superintendence of election.

101. (1) Subject to the provision of this Act and rules made thereunder, the superintendence, direction and control and the conduct of election of members of a Gram Panchayat shall be vested in such authority as may be prescribed.

(2) For the performance of his duties and functions such authority shall be assisted by such other officers and staff as may be appointed by the State Government in this behalf.

Application for questioning the election.

102. (1) The election of a person as a member of a Gram Panchayat or Zilla Panchayat shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that—

(a) the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election; or

(b) that the result of the election has been materially affected—

(i) by the improper acceptance or rejection of any nomination;

(ii) by gross failure to comply with the provisions of this Act or the rules framed thereunder.

(2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act.

(1) Bribery, that is to say—

(A) any gift, offer or promise by a candidate or by any other person with the connivance of a candidate of any gratification to

any person whomsoever, with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being a candidate at any election; or

(b) an elector to vote or refrain from voting at an election; or as a reward to —

(i) a person for having stood or not stood or having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting.

(B) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right :

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community ; or

(ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered object of devine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.

Explanation—Any person who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election.

(4) The authority to whom the application under sub-section (1) is made shall, in the matter of —

(a) hearing of the application and the procedure to be followed at such hearing;

(b) setting aside the election or declaring the election to be void or declaring applicant to be duly elected or any other relief that may be granted to the petitioner,

have such powers and authority may be prescribed.

(5) The order passed by the prescribed authority upon an application under sub-section (1), shall be final and conclusive and shall not be questioned in any civil court.

Decision on question as to disqualification.

103. If any question arises as to whether a person has become subject to any disqualification under sub-section (1) of section 9, the question shall be referred to the prescribed authority for his decision and his decision shall, subject to the result of any appeal as may be prescribed, be final:

Provided that no order shall be passed under this section unless the person so disqualified is given an opportunity of being heard.

Improvement of sanitation.

104. For the improvement of sanitation a Gram Panchayat or Zilla Panchayat may, by order, require the owner or occupier of any land or building, within such reasonable period as may be specified in the notice served upon him and after taking into consideration his financial position.

(a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water closet, drain, cesspool, or other receptacle for filth, sull-age, rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water closet which opens on to a street or drain or to shut off such latrine, urinal or water closet by a sufficient roof or wall or fence from the view of persons passing by or dwelling in the neighbourhood;

(b) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighbourhood;

(c) to clear off any vegetation, undergrowth, prickly pear or scrab jungle therefrom;

(d) to remove any dirt, dung, nightsoil, manure or any obnoxious or offensive matter therefrom and to cleanse the land or building.

Power of Gram Panchayat or Zilla Panchayat over village roads, water ways and other matters.

105. (1) A Gram Panchayat or Zilla Panchayat shall have control over all village roads and waterways within its local limits and may do all things necessary for the maintenance and repair thereof, and may—

(a) construct new bridges and culverts;

(b) direct or close any such village road, bridge or culvert;

(c) widen, open, enlarge or otherwise improve any such village road, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such road;

(d) deepen or otherwise improve such waterways;

(e) trim hedges and branches of trees projecting on roads;

(f) set apart by public notice any public source of water supply for drinking or culinary purpose and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

(2) A Gram Panchayat or Zilla Panchayat, as the case may be, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any village road or drain or other property under the control and management of the said Gram Panchayat or Zilla Panchayat, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time specified in the notice.

(3) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified, the Gram Panchayat or the Zilla Panchayat concerned may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as arrears of land revenue or public demand.